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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/839,696

04/19/2001

Brian Perry

CLON-037CON

3391

41064

7590

05/23/2005

BOZICEVIC, FIELD & FRANCIS (BD BIOSCIENCES)
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EXAMINER

GUPTA, ANISH

ART UNIT

PAPER NUMBER

1654

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/839,696

Applicant(s)

PERRY ET AL.

Examiner

Anish Gupta

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-17, 39-42 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-17, 39-42 and 44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed 1-1-05 is acknowledged. Claims 38 and 43 were canceled. Claims 14-17, 39-42 and 44 are pending in this application.
2. The indicated allowability of claims 43-44 are withdrawn in view of the newly discovered reference(s) to Mantovaara et al. Rejections based on the newly cited reference(s) follow.
3. All rejection made in the previous office action and not cited herein are hereby withdrawn.

New Grounds For Rejections

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 14-17, 39-42 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Mantovaara et al. and Porath et al.

The claims are drawn to a method of synthesizing carboxymethylated aspartate agarose chelating resin.

Mantovaara et al. Teaches the synthesis of caboxymethylated aspartic acid agarose by subjecting separose 6B with epichlorhydrin (see page 316). The reference of Porath et al. states that carbohydrates such as agarose with epichlorhydrin yield oxirane-agarose (see col. 2, lines 18-28).

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Thus, the reaction of sepharose 6B (agarose) with epichlorohydrin yield oxirane-agarose.

Mantovaara et al. then teaches resulting product is reached with aspartic acid and washed with a solution of $\text{NaHCO}_3/\text{Na}_2\text{CO}_3$ in sodium hydroxide (see page 317). The reaction take place at room temperature (see page 316). Mantovaara et al. teach the affinity of the CM-asp agarose where the metal ion is Co, Cu, and Ca (see page 318). Note that both Co and Cu will have two valencies for complexing the aspartate agarose. The reference discloses the adsorption amount of the metal for all of the metal recited above (see table I, page 317). Thus, the reference does teach the addition of metal ions other than Calcium as applicants contend.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anish Gupta whose telephone number is (571)272-0965. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campel, can normally be reached on (571) 272-0974. The fax phone number of this group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.



Anish Gupta
Patent Examiner